

DARRYL P. RAINS (*Pro Hac Vice*)
DRains@mofo.com
ERIK J. OLSON (*Pro Hac Vice*)
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: 650.813.5600
Facsimile: 650.494.0792

JAMES J. PISANELLI (SBN 4027)
jpisanelli@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK LLP
100 City Parkway, Suite 1600
Las Vegas, Nevada 89106
Telephone: 702.382.2101
Facsimile: 702.382.8135

Attorneys for defendants Global Cash Access Holdings, Inc.,
Kirk Sanford, Harry C. Hagerty III, Walter G. Kortschak,
Charles J. Fitzgerald, E. Miles Kilburn, William H. Harris, and
Summit Partners L.P.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

IN RE GLOBAL CASH ACCESS HOLDINGS,
INC. SHAREHOLDER LITIGATION

This document relates to:
ALL ACTIONS

Lead Case No. 2:07-cv-01659-JCM-PAL

Consolidated for all pretrial purposes with
Lead Case No. 2:08-cv-1320-KJD-GWF

CLASS ACTION

**RESPONSE TO ORDER TO SHOW
CAUSE WHY SANCTIONS SHOULD
NOT BE IMPOSED**

Defendants Global Cash Access Holdings, Inc., Kirk Sanford, Harry C. Hagerty III,
Walter G. Kortschak, Charles J. Fitzgerald, E. Miles Kilburn, William H. Harris, and Summit
Partners L.P. (collectively, the “Company Defendants”) file this Response to the Court’s
September 21, 2009, Order requiring an explanation for the apparent failure of defendants to file a
Certificate of Interested Parties.

What from the vantage point of the Court appears to be a conscious failure by defendants
to file a Certificate of Interested Parties appears to be a simple docketing mistake. As described
below, the Company Defendants sought diligently to comply with the Court’s August 14, 2009,

1 Order and filed a Certificate of Interested Parties on August 17, 2009. Contrary to the
 2 intent of the Company Defendants, the Certificate of Interested Parties they filed was
 3 docketed only under Case Number 2:07-cv-01659-JCM-PAL and not also under Case
 4 Number 2:08-cv-1320-JCM-PAL. To avoid any further issues and confusion, the Company
 5 Defendants are re-filing their Certificate under Case Number 2:08-cv-1320-JCM-PAL. The
 6 circumstances of this error are described further below.

7 On August 14, 2009, this Court ordered Defendants Global Cash Access Holdings, Inc.,
 8 Kirk Sanford, Summit Partners, L.P., Walter G. Kortschak, Charles W. Fitzgerald, E. Miles
 9 Kilburn, William H. Harris, Harry C. Hagerty, III, Karim Maskatiya, Robert Cucinotta, and
 10 M&C International to file a Certificate of Interested Parties by August 31, 2009. (Dkt. #119.)

11 On August 17, 2009, the next business day, the Company Defendants promptly filed their
 12 Certificate of Interested Parties ("Certificate"). (*See* Company Defendants' Request for Judicial
 13 Notice in support of Response to Order to Show Cause ("RJN") ¶¶ A-B.) This Certificate
 14 duplicated much of the information in the Certificate of Interested Parties that all defendants
 15 filed on June 19, 2008, in the original derivative action before that case was consolidated
 16 with the class action in December 2008.¹ (*See Id.* ¶ D and Ex. A; Order to Consolidate
 17 (Dkt. #93).) The caption on the August 17, 2009, Certificate identifies both the lead case,
 18 Case Number 2:07-cv-01659-JCM-PAL, and the consolidated case, Case Number 2:08-cv-1320-
 19 KJD-GWF, and states that the Certificate is related to case number 2:08-cv-1320-KJD-GWF.
 20 But it now appears that the Certificate was docketed only in the former.² Upon the filing of the
 21 August 17, 2009 Certificate, the Company Defendants believed that they had complied with the
 22 Court's August 14th Order.

23
 24
 25 ¹ The Company Defendants originally believed that the filing of the June 19, 2008,
 26 Certificate of Interested Parties had been sufficient to apprise the Court of the interested parties in
 the consolidated cases. (*See* RJN ¶ D.)

27 ² Defendants Maskatiya, Cucinotta, and M&C International, who at the time were and still
 28 are separately represented, also filed a Certificate of Interested Parties on August 5, 2009, in Case
 Number 2:07-CV-01659-JCM-PAL. (*See* RJN ¶¶ A & C.) It appears the same error occurred.

1 It was not until the Company Defendants received the Court's September 21, 2009, Order
2 to Show Cause (Dkt. #120) that they learned of any apparent noncompliance. It was the
3 Company Defendants' intent that the dockets in all of the consolidated actions reflect the filing of
4 the Certificate no later than August 17, 2009. Contemporaneous with this Response, the
5 Company Defendants are re-filing their Certificate under Case Number 2:08-cv-1320-JCM-PAL
6 to avoid any mistake and resolve any issues.

7 The Company Defendants acted in good faith and believed they were in compliance with
8 the Court's August 14th Order by filing their Certificate of Interested Parties on August 17, 2009.
9 Counsel for the Company Defendants have changed their internal captions to avoid any future
10 errors. The Company Defendants respectfully submit that sanctions should not be imposed.

11 Dated: September 24, 2009

By: /s/ James J. Pisanelli

12 JAMES J. PISANELLI
13 BROWNSTEIN HYATT FARBER SCHRECK LLP

14 AND

15 DARRYL P. RAINS
16 ERIK J. OLSON
MORRISON & FOERSTER LLP

17 Attorneys for Defendants Global Cash Access
18 Holdings, Inc., Kirk Sanford, Harry C. Hagerty III,
19 Walter G. Kortschak, Charles J. Fitzgerald, E. Miles
20 Kilburn, William H. Harris, and Summit
21 Partners L.P.